

(c) *Covered types of services and intangible assets.* The BE-120 survey is intended to collect information on U.S. international trade in all types of services and intangible assets for which information is not collected in other BEA surveys and is not available to BEA from other sources. The major types of services transactions not covered by the BE-120 survey are travel, transportation, insurance (except for purchases of primary insurance), financial services (except for purchases by non-financial firms), and expenditures by students and medical patients who are studying or seeking treatment in a country different from their country of residence. Covered services are: Advertising services; accounting, auditing, and bookkeeping services; auxiliary insurance services; computer and data processing services; construction services; data base and other information services; educational and training services; engineering, architectural, and surveying services; financial services (purchases only, by companies or parts of companies that are not financial services providers); industrial engineering services; industrial-type maintenance, installation, alteration, and training services; legal services; management, consulting, and public relations services (including allocated expenses); merchanting services (sales only); mining services; operational leasing services; other trade-related services; performing arts, sports, and other live performances, presentations, and events; premiums paid on purchases of primary insurance; losses recovered on purchases of primary insurance; research, development, and testing services; telecommunications services; and other selected services. "Other selected services" includes, but is not limited to: Account collection services; disbursements to fund news-gathering costs of broadcasters; disbursements to fund news-gathering costs of print media; disbursements to fund production costs of motion pictures; disbursements to fund production costs of broadcast program material other than news; disbursements to maintain government tourism and business promotion offices; disbursements for sales promotion and representation; disbursements to participate in foreign trade shows (purchases only); employment agencies and temporary help supply services; language translation services; mailing, reproduction, and commercial art; medical services (non-patient—e.g., laboratory or diagnostic services); salvage services; satellite photography and remote sensing/satellite imagery services; security services; space transport (includes satellite launches, transport of goods and people for scientific experiments, and space passenger transport); transcription services; and waste treatment and depollution services. The intangible assets covered by the BE-120 survey are rights related to: Industrial processes and products; books, compact discs, audio tapes and other

copyrighted material and intellectual property; trademarks, brand names, and signatures; performances and events pre-recorded on motion picture film and television tape, including digital recording; broadcast and recording of live performances and events; general use computer software; business format franchising fees; and other intangible assets, including inalienable rights of users.

§ 801.11 Rules and regulations for the BE-80, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons.

A BE-80, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons, will be conducted covering 1999 and every fifth year thereafter. All legal authorities, provisions, definitions, and requirements contained in §§ 801.1 through 801.9 are applicable to this survey. Additional rules and regulations for the BE-80 survey are given in paragraphs (a) through (d) of this section. More detailed instructions are given on the report forms and instructions.

(a) *Who must report—(1) Mandatory reporting.* Reports are required from each U.S. person who is a financial services provider or intermediary, or whose consolidated U.S. enterprise includes a separately organized subsidiary, or part, that is a financial services provider or intermediary, and who had transactions (either sales or purchases) directly with unaffiliated foreign persons in all financial services combined in excess of \$3,000,000 during its fiscal year covered by the survey. The \$3,000,000 threshold should be applied to financial services transactions with unaffiliated foreign persons by all part of the consolidated U.S. enterprise combined that are financial services providers or intermediaries. Because the \$3,000,000 threshold applies separately to sales and purchases, the mandatory reporting requirement may apply only to sales, only to purchases, or to both.

(i) The determination of whether a U.S. financial services provider or intermediary is subject to this mandatory reporting requirement may be based on the judgment of knowledgeable persons in a company who can identify reportable transactions on a recall basis, with a reasonable degree

of certainty, without conducting a detailed manual records search.

(ii) Reporters who file pursuant to this mandatory reporting requirement must provide data on total sales and/or purchases of each of the covered types of financial services transactions and must disaggregate the totals by country.

(2) *Voluntary reporting.* If during the fiscal year covered, sales or purchases of financial services by a firm that is a financial services provider or intermediary, or by a firm's subsidiaries, or parts, combined that are financial services providers or intermediaries, are \$3,000,000 or less, the U.S. person is requested to provide an estimate of the total for each type of service. Provision of this information is voluntary. Because the \$3,000,000 threshold applies separately to sales and purchases, this voluntary reporting option may apply only to sales, only to purchases, or to both.

(b) *BE-80 definition of financial services provider.* The definition of financial services provider used for this survey is identical in coverage to Sector 52—Finance and Insurance, and holding companies that own or influence, and are principally engaged in making management decisions for these firms (part of Sector 55—Management of Companies and Enterprises, of the North American Industry Classification System, United States, 2002). For example, companies and/or subsidiaries and other separable parts of companies in the following industries are defined as financial services providers: Depository credit intermediation and related activities (including commercial banking, savings institutions, credit unions, and other depository credit intermediation); nondepository credit intermediation (including credit card issuing, sales financing, and other nondepository credit intermediation); activities related to credit intermediation (including mortgage and nonmortgage loan brokers, financial transactions processing, reserve, and clearinghouse activities, and other activities related to credit intermediation); securities and commodity contracts intermediation and brokerage (including investment banking and securities dealing, securities brokerage, commodity contracts dealing, and

commodity contracts brokerage); securities and commodity exchanges; other financial investment activities (including miscellaneous intermediation, portfolio management, investment advice, and all other financial investment activities); insurance carriers; insurance agencies, brokerages, and other insurance related activities; insurance and employee benefit funds (including pension funds, health and welfare funds, and other insurance funds); other investment pools and funds (including open-end investment funds, trusts, estates, and agency accounts, real estate investment trusts, and other financial vehicles); and holding companies that own, or influence the management decisions of, firms principally engaged in the aforementioned activities.

(c) *Covered types of services.* The BE-80 survey covers the following types of financial services transactions (purchases and/or sales) between U.S. financial services providers and unaffiliated foreign persons: Brokerage services related to equities transactions; other brokerage services; underwriting and private placement services; financial management services; credit-related services, except credit card services; credit card services; financial advisory and custody services; securities lending services; electronic funds transfer services; and other financial services. The BE-80 also covers total receipts and total payments for the above-listed types of financial services transactions with affiliated foreign parties (foreign affiliates and foreign parents).

(d) *What to file.* (1) The BE-80 survey consists of Forms BE-80 (A) and BE-80(B). Before completing a form BE-80 (B), a consolidated U.S. enterprise (including the top U.S. parent and all of its subsidiaries and parts combined) must complete Form BE-80(A) to determine its reporting status. If the enterprise is subject to the mandatory reporting requirement, or if it is exempt from the mandatory reporting requirement but chooses to report data voluntarily, it should either:

(i) File a separate Form BE-80(B) for each separately organized financial services subsidiary or part of a consolidated U.S. enterprise; or

(ii) File a single BE-80(B) representing the sum of all covered transactions by all financial services subsidiaries or parts of the enterprise combined.

(2) Reporters who receive the BE-80 survey from BEA but are not subject to the mandatory reporting requirements and choose not to report data voluntarily must complete and return to BEA the Exemption Claim.

[64 FR 59121, Nov. 2, 1999, as amended at 69 FR 69510, Nov. 30, 2004]

PART 806—DIRECT INVESTMENT SURVEYS

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- 806.18 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

AUTHORITY: 5 U.S.C. 301; 22 U.S.C. 3101–3108; E.O. 11961 (3 CFR, 1977 Comp., p. 86), as amended by E.O. 12318 (3 CFR, 1981 Comp., p. 173); E.O. 12518 (3 CFR, 1985 Comp., p. 348).

SOURCE: 42 FR 64315, Dec. 22, 1977, unless otherwise noted.

§ 806.1 Purpose.

The purpose of this part is to set forth the rules and regulations necessary to carry out the data collection program and analyses concerning direct investment as required by, or provided for in, the International Investment Survey Act of 1976 (Pub. L. 94-472, 90 Stat. 2059, 22 U.S.C. 3101 to 3108), hereinafter “the Act”. The overall purpose of the Act is to provide com-

prehensive and reliable information pertaining to international investment, including direct investment, and to do so with a minimum of burden on respondents and with no unnecessary duplication of effort.

§ 806.2 Recordkeeping requirements.

In accordance with section 5(b)(1) of the Act (22 U.S.C. 3104) persons subject to the jurisdiction of the United States shall maintain any information (including journals or other books of original entry, minute books, stock transfer records, lists of shareholders, or financial statements) which is essential for carrying out the surveys and studies provided for by the Act.

§ 806.3 Reporting requirements.

(a) In accordance with section 5 (b)(2) of the Act (22 U.S.C. 3104) persons subject to the jurisdiction of the United States shall furnish, under oath, any report containing information which is determined to be necessary to carry out the surveys and studies provided for by the Act.

(b) Such reports may be required from among others, U.S. persons which have direct investment abroad, U.S. persons in which foreign persons have direct investment, U.S. intermediaries, and U.S. persons which assist or intervene in the purchase or sale of direct investment interests, such as real estate brokers and brokerage houses acting as managers of tender offers.

§ 806.4 Response required.

Reports, as specified below, are required from all persons coming within the reporting requirements, whether or not they are contacted by BEA. In addition, any person BEA contacts, either by sending them report forms or buy written inquiry concerning the person's being subject to the reporting requirements of a survey conducted pursuant to this part must respond in writing. The response must be made by filing the properly completed report form, or by submitting in writing, or within 30 days of being contacted, a valid exemption claim (including the situation where the statistical data requested on the form are not applicable) or by certifying in writing to the fact